

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

DONNIE JOE BACON,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-05-510-W
)	
MARTY SIRMONS, WARDEN, <i>et al.</i> ,)	
)	
Respondents.)	

Report and Recommendation Concerning Attorney General's Status

The Respondents have moved to dismiss the Oklahoma Attorney General as a party.¹ The Petitioner concedes this portion of the Respondents' motion,² and the Attorney General is indeed an improperly named respondent.³ Accordingly, the Court should dismiss the Oklahoma Attorney General as a party.

¹ Response to Petition for Writ of Habeas Corpus at pp. 5-6 (July 5, 2005).


² Petitioner's Reply to Respondent's Answer and Response to Petition for a Writ of Habeas Corpus at pp. 1-2 (Nov. 14, 2005).

³ See *Crowley v. Graham*, 172 F.3d 62, 1999 WL 72123, Westlaw op. at 1 (10th Cir. Feb. 16, 1999) (unpublished op.) (holding that the Utah Attorney General was not a proper party to a habeas action).

The Petitioner can object to this report and recommendation.⁴ To do so, Mr. Bacon must file an objection with the Clerk of this Court by April 3, 2006.⁵ The failure to timely object would foreclose appellate review of the suggested ruling.⁶

The referral to the undersigned is not terminated.

Entered this 14th day of March, 2006.



Robert E. Bacharach
United States Magistrate Judge

⁴ See 28 U.S.C. § 636(b)(1) (2000).

⁵ See W.D. Okla. LCvR 72.1(a).

⁶ See *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); see also *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) (“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).